

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

Case No. 2:21-cv-20715

COMMUNITY FUTURES )  
TRADING COMMISSION,

Plaintiff, ) STATEMENT ON  
THE RECORD

v. )

WORLDWIDEMARKETS, LTD., TAB )  
NETWORKS, INC.; THOMAS PLAUT;  
and ARTHUR DEMBRO,

Defendants. )  
\_\_\_\_\_ )

TRANSCRIPT of the stenographic notes of  
the proceedings in the above-entitled matter, as  
taken by and before ELLEN J. GODINO, CCR, RPR, CRCR,  
held from multiple locations via Zoom Teleconference,  
Thursday, November 16, 2023, commencing at 10:16 a.m.

Job No. CS6306413

A P P E A R A N C E S:

COMMUNITY FUTURES TRADING COMMISSION

DIVISION OF ENFORCEMENT

DIVISION OF ENFORCEMENT

BY: JON J. KRAMER, ESQ.

JOSEPH KONIZESKI, ESQ

JOSEPH PLATT, ESQ.

77 West Jackson Boulevard

Suite 800

312-596-0563

jkramer@cftc.gov

jplatt@cftc.gov

jkramer@cftc.gov

Attorneys for the Plaintiff

McCARTER & ENGLISH, LLP

BY: GUILLERMO ARTILES, ESQ.

MARK MAKHAIL, ESQ.

Four Gateway Center

100 Mulberry Street

Newark, New Jersey 07102-4056

973-622-4444

mmakhail@mccarter.com

gartiles@mccarter.com

Attorneys for the Defendant Arthur Dembro

GEKAS LAW LTD.

BY: CONSTANTINE JOHN GEKAS, ESQ.

33 North LaSalle Street

Chicago, Illinois 60602

(312) 726-4501

cjg@gekaslaw.com

Attorneys for Defendant Thomas Plaut

## 1 I N D E X

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4 STATEMENT ON THE RECORD

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## 8 E X H I B I T S

9

10 No. Description Page

11

12 CFTC-185 Email dated October 17, 4

13 2023, with Attached

14 Subpoena

15 CFTC-189 Notice of Deposition 5

16 CFTC-197 Email dated August 31, 2023 5

17 CFTC-198 Email dated September 28, 7

18 2023

19 CFTC-199 Email chain ending in date 8

20 September 29, 2023

21 D-Plaut-1 Email dated October 1, 2023 10

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1 MR. KRAMER: On the record at 10:16 a.m.  
2 Eastern.

3 So we previously were on the record at  
4 9:30 Eastern, the time that was subpoenaed for the  
5 deposition of Thomas Plaut. Mr. Plaut was issued a  
6 subpoena via email on Tuesday, October 17, 2023, at  
7 7:45 p.m., an email sent by my colleague Joseph Platt  
8 to the email address that the Court ruled we could  
9 serve him at. That email is an exhibit. It's  
10 Exhibit 185 which I would like to enter into the  
11 record.

12 (Exhibit CFTC-185, Email dated October  
13 17, 2023, with Attached Subpoena, was received and  
14 marked for identification.)

15 MR. KRAMER: The subpoena attached to  
16 that email required that Mr. Plaut appear via video  
17 today at 9:30 Eastern for a deposition that was to  
18 continue until 5:30 p.m. Eastern. CFTC counsel, as  
19 well as defense counsel, appear via video at  
20 9:30 a.m. eastern this morning. Mr. Plaut did not  
21 appear. We agreed to go off the record and appear  
22 again at 10:15 Eastern. We have given Mr. Plaut  
23 45 minutes to appear; Mr. Plaut has not appeared.

24 The deposition which required him to  
25 appear is Exhibit 189, which I would like to enter

1 into the record.

2 (Exhibit CFTC-189, Notice of Deposition,  
3 was received and marked for identification.)

4 MR. GEKAS: Can you move the exhibits  
5 over to marked exhibits in Exhibit Share?

6 MR. KRAMER: I believe they should be  
7 there. Do you want to check again? Let me refresh.

8 (Discussion off the record.)

9 MR. KRAMER: So Exhibit 189 is the  
10 Notice of Deposition requiring Mr. Plaut to appear  
11 today for a deposition at 9:30 a.m. Eastern is  
12 entered into evidence.

13 (Exhibit CFTC-197, Email dated August  
14 31, 2023, was received and marked for identification.

15 MR. KRAMER: Next, I would like to enter  
16 CFTC Exhibit 197. This is an email exchange between  
17 Mr. Gekas and Mr. Plaut. In this email exchange on  
18 Thursday, August 24, 2023, Mr. Gekas sent an email to  
19 Mr. Plaut, and counsel, which said "To establish what  
20 we believe to be Mr. Plout's seriously debilitating  
21 medical conditions, we intend to issue subpoenas to  
22 his last-known treating medical providers as  
23 specified in the sealed filing docket number 72 by  
24 his former lawyers. May we have your consent to the  
25 attached HIPAA qualified protective order? Thanks."

1 In response to that email, which you  
2 sent to Mr. Plaut and counsel, Mr. Plaut responded  
3 only to Mr. Gekas in an email on August 29, 2023, at  
4 3:56, saying, "Mr. Gekas, I'm sorry for not getting  
5 back to you sooner. I don't have a problem with you  
6 reviewing my medical records. I would like to talk  
7 to my lawyer first. Do you mind if I get back to you  
8 tomorrow? Sincerely, Thomas S. Plaut," and that  
9 email was not cc'd to CFTC counsel. It was only sent  
10 to Mr. Gekas.

11 When we were off the record, I asked  
12 Mr. Gekas whether he or his client, Arthur Dembro,  
13 have communicated with Thomas Plaut since the date of  
14 that email, August 29, 2023. And Mr. Gekas has  
15 informed me that neither he nor his client have  
16 communicated with Tom Plaut since the date of that  
17 email.

18 Is that correct, Mr. Gekas?

19 MR. GEKAS: That's correct. I also ask  
20 you the same question, but I'll deal with it when  
21 it's my turn.

22 Go ahead.

23 MR. KRAMER: And even though that email  
24 said, "Do you mind if I get back to you tomorrow,"  
25 Mr. Gekas has informed us that neither he nor his

1 client has ever heard anything from Tom Plaut.

2 Is that correct?

3 MR. GEKAS: That's correct.

4 MR. KRAMER: Next I would like to enter  
5 Exhibit 198 on the record.

6 MR. GEKAS: Under the Rule of  
7 Completeness, let me ask you to read on Exhibit 197  
8 the top email forwarding the communications to you  
9 guys.

10 MR. KRAMER: That's in the exhibit,  
11 Chris, but after the -- that's in the exhibit that's  
12 there.

13 MR. GEKAS: Okay.

14 (Exhibit CFTC-198, Email dated September  
15 28, 2023, was received and marked for  
16 identification.)

17 MR. KRAMER: Exhibit 198 is the next  
18 exhibit we'd like to enter.

19 So today's deposition was previously  
20 noticed for October 3rd, 10:15, and it was noticed on  
21 September 18, 2023, via email, which is shown in  
22 Exhibit 198. After that deposition was noticed for  
23 October 3rd on September 18th, division staff heard  
24 nothing from Mr. Plaut, and on September 28, 2023, at  
25 3:00 p.m., I sent an email to Mr. Plaut and counsel

1 which read, "In light of the judge's directions  
2 regarding service, we are striking the dates for next  
3 week's depositions, October 2, 3rd and 4th; although  
4 we may be unavailable for the time in the event of a  
5 government shutdown, we will re-notice the dates  
6 after the service matter is resolved. Regards, John  
7 Kramer."

8 Although CFTC attorneys heard nothing  
9 from Mr. Plaut between September 18th and the date of  
10 that email, September 28th, Mr. Plaut did send an  
11 email the following day on September 29th, and I'd  
12 like to at this time enter Exhibit 199 into the  
13 record.

14 (Exhibit CFTC-199, Email chain ending in  
15 date September 29, 2023, was received and marked for  
16 identification.)

17 MR. KRAMER: And Exhibit 199 is an email  
18 that was sent on Friday, September 29, 2023, the day  
19 after we struck the date of Mr. Plaut's deposition.

20 In that email Mr. Plaut states, "Dear  
21 Mr. Platt, I have received the documents and I have  
22 computer and internet connection for Monday morning  
23 of next week at 10:15 a.m. Thank you. Sincerely,  
24 Thomas Plaut."

25 This was sent from the Thomas Plaut



1 email account which the Court has ruled he can accept  
2 service at.

3 This email from Mr. Plaut on Friday,  
4 September 29, 2023, was not just sent to CFTC  
5 counsel; it was sent to Guillermo Artiles, Chris  
6 Gekas, Joseph Konizeski and Joseph Patrick, all  
7 counsel on the case. We're cc'd on that email,  
8 unlike the email in Exhibit 197 where Mr. Plaut  
9 responded to Mr. Gekas alone.

10 So based on these exhibits, we believe  
11 that Mr. Plaut is checking his email account. He has  
12 sent two coherent emails addressing the earlier  
13 notice date of the deposition, as well as a very  
14 specific legal question posed by Mr. Gekas.

15 We believe that Mr. Plaut knows about  
16 this testimony today and has purposefully chosen not  
17 to appear.

18 MR. GEKAS: Why is it that there's  
19 redactions on Exhibit 198?

20 MR. KRAMER: These were filed as part of  
21 an attachment to a filing, and I believe that they're  
22 emails. His email is redacted so as not to show his  
23 email in a court filing.

24 MR. GEKAS: Fair enough.

25 Is that it, John?

1 MR. KRAMER: Let's go off the record  
2 just for a moment while I consult with my colleagues  
3 just for a moment, please.

4 (Off the record.)

5 MR. KRAMER: Back on the record at 10:25  
6 Eastern.

7 MR. GEKAS: I think your exchange of  
8 emails is incorrect. I'm looking at my -- I'm  
9 looking at my email file, and there's one on  
10 October 1st from Mr. Plaut to Jody Platt. I guess  
11 what I should do, I'm not sure what you're doing.

12 Please be patient with me. Let's go off  
13 the record while I do that.

14 (Off the record.)

15 (Exhibit Defendants Plaut-1, Email dated  
16 October 1, 2023, was received and marked for  
17 identification.)

18 MR. GEKAS: I hope you'll see in the  
19 marked exhibits the exhibit of a file of an email  
20 exchange between Mr. Platt, P-L-A-T-T, Joseph Platt  
21 of your office, and Thomas Plaut on the 29th of  
22 September and October 1st.

23 So there was communication between  
24 Mr. Plaut and the CFTC, copied to me and I think to  
25 my local counsel. And it says what it says. And

1       there's an explanation. I'm not sure what the  
2       relevance of it is to what we're going through now.  
3       But I wanted the record to be complete.

4               And one of these exhibits, I was a  
5       little bit surprised -- let me go back and see which  
6       one it was; it's 197. I invoke the Rule of  
7       Completeness to 197, because Mr. Kramer didn't read  
8       the top email which shows that on the 31st of August,  
9       I forwarded to the CFTC my exchange with Mr. Plaut.  
10      BTW, by the way, and FYI is for your information.

11             So I think it is correct that Mr. Plaut  
12      has been communicating or did communicate with the  
13      CFTC a couple of times with copies to me and my local  
14      counsel.

15             So I hope the record -- the written  
16      record is correct. Let me ask you what you asked me.

17             Have you had any other communications  
18      with Mr. Plaut, when I say "you," I mean the CFTC or  
19      anyone acting on its behalf, at anyone at the CFTC or  
20      anyone acting on the CFTC's behalf?

21             MR. KRAMER: I have received no other  
22      communications from Mr. Plaut.

23             MR. GEKAS: And your co-counsel?

24             MR. KRAMER: I can speak for myself, and  
25      I'm not aware of anyone else receiving

1       communications, and when you invoke the Rule of  
2       Completeness on Exhibit 197, that exhibit included  
3       the email that you referenced now. So that was a  
4       complete exhibit. You're not saying that exhibit was  
5       incomplete, are you?

6               MR. GEKAS: No, I'm saying you didn't  
7       read that part for some reason.

8               MR. KRAMER: Well, I mean, I am allowed  
9       to read the parts of the exhibits that I want to  
10      read, Chris, and I would note that you waited two  
11      days -- you waited two days after you received this  
12      email from Tom Plaut on August 29th to forward it to  
13      us on August 31st.

14              MR. GEKAS: I have the right to read the  
15      rest of it into the record under the Rule of  
16      Completeness.

17              MR. KRAMER: Well, the whole exhibit is  
18      in the record. So I want to make sure that we both  
19      agree that that exhibit is complete in and of itself.

20              Did you mark that exhibit? The exhibit  
21      you just entered, what exhibit number is that?

22              MR. GEKAS: It's not numbered; it's just  
23      identified by the file name.

24              MR. KRAMER: Chris, if you're entering  
25      into evidence, I think it needs a number. I don't

1 know if there's a rule on that. Exhibit what?

2 MR. GEKAS: Exhibit 20231001, Plaut to  
3 Platt. That's the name of the exhibit.

4 MR. KRAMER: Did you want to assign it a  
5 number?

6 Ellen, are you able to include an  
7 exhibit without a number? You're at risk of not  
8 entering this into evidence, Chris.

9 I'm preventing you from committing  
10 malpractice by telling you the number.

11 MR. GEKAS: I appreciate it. You want  
12 me to mark it?

13 MR. KRAMER: If you want it part of the  
14 record, you know. I'm fine with it not being part of  
15 the record. But if you want it to be part of the  
16 record, you've got to mark it.

17 (Off-the-record discussion.)

18 MR. KRAMER: We're not off the record.

19 MR. GEKAS: Okay, okay, just cool it.  
20 Oh, boy.

21 Can I mark it from Exhibit Share. Let  
22 me see if I can do that.

23 I guess I'll mark it as my next exhibit  
24 number.

25 (Exhibit Defendants' Plaut No. 1, Email

1       dated October 1, 2023, was received and marked for  
2       identification.)

3                       (Court Reporter clarification.)

4                       MR. KRAMER: Mr. Gekas has asked that  
5       our -- on the record asked that our exhibits --  
6       repeatedly -- during on the record -- asked that our  
7       exhibits be in Exhibit Share, so I assume he knows  
8       how to do that.

9                       MR. GEKAS: I'm almost there, guys.  
10       Please be patient with me. Just got to rename it.

11                      Okay. In the marked folders is a marked  
12       exhibit with a yellow sticker called Defendants'  
13       Plaut 1. Thank you for your guidance, Mr. Kramer, I  
14       appreciate your instruction on how to handle it. I  
15       hope that satisfies both your concerns and the court  
16       reporter's.

17                      MR. KRAMER: As long as the exhibit is  
18       properly marked, the CFTC does want a complete  
19       record, Mr. Gekas, and is not concealing anything or  
20       hiding anything.

21                      With that said, we're ready to go off  
22       the record at 10:40 a.m. Eastern time.

23                      MR. GEKAS: Fair enough.

24                      MR. KRAMER: Thank you, Ellen. We  
25       apologize that this was not a full day of testimony

1 as we had hoped.

2 (The proceedings concluded at 10:41 a.m.

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C E R T I F I C A T E .

I, ELLEN J. GODINO, LICENSE NO. X101618, a  
Certified Shorthand Reporter of the State of New Jersey,  
do hereby certify that that the foregoing is a true and  
accurate transcript of the testimony as taken  
stenographically by and before me at the time, place and  
on the date hereinbefore set forth, to the best of my  
ability.

I DO FURTHER CERTIFY that I am neither a  
relative nor employee nor attorney nor counsel of any of  
the parties to this action, and that I am neither a  
relative nor employee of such attorney or counsel, and  
that I am not financially interested in the action.



ELLEN J. GODINO

CERTIFIED COURT REPORTER

State of New Jersey

DATED: 11/16/23



[&amp; - believe]

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[best - email]

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[email - internet]

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